

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 3070 of 1983

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

=====

1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO
2. To be referred to the Reporter or not? : NO
3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
5. Whether it is to be circulated to the Civil Judge? : NO

-----  
VRUJLAL HARGOVINDBHAI CHAVDA

Versus

MANOHARLAL S DOSHI

-----  
Appearance:

MR MI MERCHANT for Petitioner  
MR SB VAKIL for Respondent No. 1 to 4, 10 to 13,  
16, 18, 19 and 21  
MR VB GHARANIA for Respondent No. 22  
None present for other Respondents

-----  
CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 27/08/1999

ORAL JUDGEMENT

1. Shri S.B. Vakil, learned counsel for the respondents, contended that this petition now does not survive. He further states that in this petition the petitioner has challenged the order of the Joint Charity Commissioner, Saurashtra and Kutch at Rajkot, under which

the application filed by him under section 41 (A) of the Bombay Public Trusts Act has been rejected.

2. The Joint Charity Commissioner, Rajkot rejected the application of the petitioner under the order dated 17th December, 1982 on the ground that in such matters it has no jurisdiction and the petitioner has to take appropriate remedy in the civil court.

3. Counsel for the petitioner, Shri M.I. Merchant submits that he was not engaged in this special civil application. He was engaged only in M.C.A. No.461 of 1997 for restoration of this special civil application, which was dismissed for non-prosecution. On being asked by the court, learned counsel for the petitioner is not in a position to say whether after the decision of the Joint Charity Commissioner, the petitioner has taken any steps in the civil court or not. Not only this, he is also unable to show whether if any interest of the petitioner survives in the special civil application.

4. Having gone through the contents of the judgment of the Joint Charity Commissioner, I do not find any illegality in the order. Looking to the nature of the dispute which is sought to be raised by the petitioner before it, it has rightly held that it does not fall within the four corners of section 41 (A) of the Bombay Public Trusts Act. So in this petition under Article 226 of the Constitution, no interference can be made with this order, more so, where the petitioner has appropriate remedy before the civil court.

5. In the result, this special civil application fails and the same is dismissed. Rule discharged. Interim relief, if any, granted by this Court stands vacated. No order as to costs.

\*\*\*\*\*

zgs/-